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Applicant : Niall R. Lynam
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REMARKS

Receipt of the Office Action mailed January 14, 2004 in the above-identified patent application is respectfully acknowledged.

With respect to the double patenting rejections, Applicant herewith submits a Terminal Disclaimer in compliance with 37 C.F.R. 1.321(c), 37 C.F.R. 1.130(b), and 37 C.F.R. 3.73(b). The Terminal Disclaimer has been signed by an officer of the assignee of the application and is made with respect to the eight prior related United States Patents mentioned by the Examiner in paragraphs 6-13 of the Office Action, namely, United States Patent Nos. 5,115,346; 5,239,406; 5,355,245; 5,523,877; 5,864,419; 5,986,797; 6,122,093; and 6,304,363. Approval and entry of the Terminal Disclaimer is respectfully requested. It is respectfully submitted that this Terminal Disclaimer now overcomes the several obviousness type double patenting rejections set forth in the Office Action, and that the rejections should now be withdrawn.

In addition, the Examiner has rejected claims 76-90, 95-142, 166, 173, 215, 240, 247, 285, 313, and 320 under 35 U.S.C. §112, first and second paragraphs, as not including structure allowing application of an electric field to the variable transmission medium included in the claims.

In response to this rejection, Applicant has now amended claims 76, 142, 215, and 285 to state that the rear surface of the first panel and the front surface of the second panel are coated with a transparent electrical conductor. As such, the variable transmission medium disposed in the space between those surfaces will be variable upon application of an electric field via the transparent electrical conductors coated on those surfaces.

In addition, in view of the amendment to claim 76, claim 91 has been cancelled and claims 92-94 have been amended to refer to the transparent electrical conductor on one or both of the defined surfaces of the first and second spaced optically transparent panels in the vehicular glazing assembly set forth in claim 76. Claims 92-94 are now respectfully submitted to properly refer to the antecedent basis found in claim 76, as amended.

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In view of the above amendments, it is respectfully submitted that the Examiner's rejections of the indicated claims under 35 U.S.C. §112, first and second paragraphs, are now obviated and should be withdrawn.

In view of all of the above, it is respectfully submitted that this application is now in a condition for allowance including claims 76-90, 92-142, 166, 173, 215, 240, 247, 285, 313, and 320. Assuming the Examiner is in agreement, she is authorized to cancel the remaining claims of the application without prejudice to Applicant's right to pursue a continuing or divisional application based thereon based during the pendency of the present application. A Notice of Allowance is respectfully requested.

Respectfully submitted,

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By: Van Dyke, Gardner, Linn & Burkhart, LLP

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Date

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